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OPEN RECORDS DIVISION

August 30, 2012

CERTIFIED MAIL NO. 7010 1870 0001 5083 2647

RETURN RECEIPT REQUESTED

Honorable Greg Abbott
Office of the Attorney General
Attn: Open Records Division
Post Office Box 12548
Austin, Texas 78711-2548

Dear General Abbott:

On August 16, 2012, the Montgomery County Sheriff's Department received the enclosed request to be provided with three (3) categories of information related to the purchase and use of aerial drones by the Sheriff's Department. It is our belief that a portion of the information requested is excepted from disclosure pursuant to Section 552.108(b)(1) of the Government Code. We have attached a memorandum brief, the request letter, and the responsive documents. Please provide us with an Opinion in this matter.

Sincerely,

MONTGOMERY COUNTY
ATTORNEY'S OFFICE

By: David K. Walker
David K. Walker,
County Attorney

DKW/aw
Enclosures

cc: Mr. Shawn Musgrave (w/Brief Only)

cc: Montgomery County Sheriff's Department(w/o Enclosures)
Attn: Records Division (ORR#2012-5621)



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BRIEF IN MEMORANDUM

On August 16, 2012, the Montgomery County Sheriff's Department received the enclosed written request for information. See *Exhibit "A"*. The requestor, Shawn Musgrave, asks to be provided with three (3) categories of information related to the purchase and use of aerial drones by the Sheriff's Department. We have provided the Requestor with information responsive to Item 1 of his request. However, we believe the information responsive to Item Nos. 2 and 3 may be excepted from public disclosure, and are attached hereto as *Exhibit "B"*.

The information requested includes documents which fall under § 552.108(b), the "*law enforcement exception*". That exception provides:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution.

TEX. GOV'T CODE ANN. § 552.108 (Vernon Supp. 2002).

The requested policy/procedures consist of internal records utilized by the Montgomery County Sheriff's Department and its staff during the course of conducting criminal investigations. See *Exhibit "B"*. Section 552.108 (b)(1) excepts from disclosure the internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution if its release would interfere with law enforcement or prosecution. The release of the information requested would be a release of certain specific law enforcement techniques and detailed procedures, which, if released, could jeopardize the lives and safety of police officers and the general public, and interferes with law enforcement and prosecution. Tex. Att'y Gen. ORD-531 (1989). See *Affidavit of Dan Norris attached as Exhibit "C"*.

The requested information is of the type that assists law enforcement in the anticipation and prediction of the actions and responses in criminal investigations and emergency situations. Disclosure of this information would not only endanger the lives of the public and law enforcement, but it also puts law enforcement at a disadvantage when trying to apprehend a fugitive, or in trying to secure a potentially volatile and dangerous situation, such as in hostage situations, and would reveal strategies and techniques that are invaluable to law enforcement. No legitimate public interest is served by the disclosure of this information to Requestor. This information, if released, would impair an officer's ability to arrest a suspect and would place individuals at an advantage in confrontations with the police. Tex. Att'y Gen. ORD-531 (1989).